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# A BILL FOR AN ACT

RELATING TO PROCUREMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The purpose of this Act is to improve  
2 transparency and efficiency in the procurement system by:

3       (1) Requiring the administrator of the state procurement  
4 office to establish a database to record performance  
5 by contractors for contracts under chapter 103, Hawaii  
6 Revised Statutes, to help ensure that the public  
7 receives a completed project that is delivered on  
8 time, on budget, and of acceptable quality;

9       (2) Transferring authority for the compliance audit unit  
10 to the state procurement office;

11       (3) Requiring the compliance audit unit to establish a  
12 database of meaningful statewide procurement contract  
13 data to be made accessible to each governmental entity  
14 and selected non-confidential data to be made  
15 accessible to the general public to further  
16 transparency and accountability;



(4) Authorizing the compliance audit unit to conduct audits and have authority to access statewide public contract information; and

(5) Establishing a procurement task force to define past performance, create criteria for adverse performance, and develop associated rules and processes required for statewide implementation.

SECTION 2. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§103D- Performance database; contractors. (a) The administrator of the state procurement office shall develop and administer a searchable electronic database to record performance by contractors for contracts under chapter 103.

(b) The administrator of the state procurement office shall establish criteria for the listing of contractors in the performance database, which shall include the name and other relevant information of contractors on projects.

(c) The performance database shall be accessible to all procurement officers listed in section 103D-203. The



1 administrator of the state procurement office may make the  
2 performance database accessible to the public.

3 (d) At the completion of any contract under chapter 103,  
4 the procurement officer shall submit a performance report per  
5 subsection (b). The contractor shall have the opportunity to  
6 respond in writing on the report.

7 (e) Before the award of any contract under chapter 103,  
8 the procuring officer shall consult the performance database.  
9 The procuring officer may consider this information when  
10 evaluating the responsibility of an offeror."

11 SECTION 3. Section 103D-107, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[+]§103D-107[+] **Compliance audit unit; establishment and**  
14 **purpose.** There is established a compliance audit unit within  
15 the ~~[office of the auditor.]~~ state procurement office. The  
16 purpose of this unit shall be to:

17 (1) Periodically review and audit procurement practices  
18 within government to ensure compliance with this  
19 chapter and all applicable rules; and

20 (2) Advocate competition, fairness, and accountability in  
21 the procurement process.



1 Reports made by this unit shall be a matter of public record.  
2 This unit shall utilize as part of the review process, a review  
3 of records and activities specifically for trends and patterns  
4 of occurrence."

5 SECTION 4. Section 103D-108, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "§103D-108 **Compliance audit unit; duties and**  
8 **responsibilities.** The compliance audit unit shall:

- 9 (1) Review and assess applicable innovations in  
10 procurement methods or processes in other governmental  
11 jurisdictions or as described in national or regional  
12 publications;
- 13 (2) Review current or proposed statutes and rules to  
14 determine whether they promote fairness, efficiency,  
15 and accountability in the procurement process;
- 16 (3) Review selected contracts awarded pursuant to section  
17 103D-304;
- 18 (4) Conduct studies, research, and analyses, and make  
19 reports and recommendations with respect to existing  
20 and new methods of procurement and other matters  
21 within the jurisdiction of the policy board;



(5) Establish and maintain a procurement library;

(6) Establish and maintain a database of meaningful statewide procurement contract data; provided that all data on the database shall be made accessible to each governmental entity and selective non-confidential data may be made accessible to the general public to further transparency and accountability, as determined appropriate by the administrator;

~~[(+6)]~~ (7) Report to the appropriate agency and the chief procurement officer stating the areas of noncompliance and recommendations for remedial action; and

~~[(+7)]~~ (8) ~~[Be present at]~~ Participate in legislative hearings and policy board meetings to present the findings of the unit."

SECTION 5. Section 103D-109, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§103D-109[+]~~ **Compliance audit unit; government officers and employees to cooperate.** The officers and employees of the State and of each county shall cooperate with this unit and furnish to them such information related to procurement activities as may be called for in connection with the



1 information gathering and research activities of this unit[-],  
2 including by reporting contract data pursuant to requirements  
3 and procedures established by the administrator, for inclusion  
4 in the database established under section 103D-108(6). The  
5 information shall be provided in a timely manner pursuant to  
6 procedures established by the administrator and shall be free of  
7 charge."

8 SECTION 6. Section 103D-205, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) For their respective jurisdictions and unless  
11 otherwise specifically provided in this chapter, each chief  
12 procurement officer shall serve as the central procurement  
13 officer for the officer's respective jurisdiction and:

- 14 (1) Procure or supervise the procurement of all goods,  
15 services, and construction;  
16 (2) Exercise general supervision and control over all  
17 inventories of goods;  
18 (3) Sell, trade, or otherwise dispose of surplus goods;  
19 [~~and~~]



(4) Establish and maintain programs for the inspection, testing, and acceptance of goods, services, and construction[-];

(5) Coordinate with the administrator regarding procurement policies, opportunities for statewide innovation implementation, and concerns; and

(6) Report procurement contract data pursuant to requirements established by the administrator, in the form and manner prescribed by the state procurement office, for inclusion in the database established under section 103D-108(6)."

SECTION 7. (a) The comptroller shall convene a procurement task force to examine the cost impacts that the procurement process has had for public works construction projects, and specifically to examine and recommend past performance standards and statewide processes in order to promote economy, efficiency, effectiveness, and impartiality in procurement for state and county governments.

(b) The comptroller, or the comptroller's designee shall serve as the chair of the task force and the comptroller shall solicit representatives from the following entities to serve on



1 the task force, provided that those persons designated shall be  
2 knowledgeable of procurement procedures and issues within their  
3 respective organizations:

- 4 (1) The state procurement office;
- 5 (2) The University of Hawaii;
- 6 (3) The department of education;
- 7 (4) The office of Hawaiian affairs;
- 8 (5) The department of transportation;
- 9 (6) A county procurement department;
- 10 (7) A county board or department of water supply;
- 11 (8) The semi-autonomous public transit agency of the City  
12 and County of Honolulu;
- 13 (9) The Subcontractors Association of Hawaii;
- 14 (10) The General Contractors Association of Hawaii;
- 15 (11) The Hawaii Building and Construction Trades Council;
- 16 (12) The Hawaii Construction Alliance; and
- 17 (13) Any additional representatives deemed necessary by the  
18 comptroller.

19 (c) The task force shall define past performance, create  
20 criteria for adverse performance, and develop associated rules  
21 and processes required for statewide implementation.





(d) The task force shall submit its definition of past performance, criteria, and rules to the procurement policy board no later than one hundred eighty days after the effective date of this Act. In the event that the task force fails to submit its definition, criteria, and rules no later than one hundred eighty days after the effective date of this Act, the procurement policy board shall define past performance, create criteria for adverse performance, and develop associated rules and processes required for statewide implementation. The procurement policy board shall enact permanent rules no later than January 1, 2018.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 for the compliance audit unit to establish a procurement database pursuant to section 4 of this Act.

The sum appropriated shall be expended by the state procurement office for the purposes of this Act.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$780,000 or so much thereof as may be necessary for fiscal year 2015-2016 and the



1 same sum or so much thereof as may be necessary for fiscal year  
2 2016-2017 for operation and maintenance of the compliance audit  
3 unit's procurement database, including one full-time equivalent  
4 (1.0 FTE) position to conduct database operations and  
5 maintenance.

6 The sums appropriated shall be expended by the state  
7 procurement office for the purposes of this Act.

8 SECTION 10. There is appropriated out of the general  
9 revenues of the State of Hawaii the sum of \$260,000 or so much  
10 thereof as may be necessary for fiscal year 2015-2016 and the  
11 same sum or so much thereof as may be necessary for fiscal year  
12 2016-2017 for staffing and operation of the compliance audit  
13 unit within the state procurement office, including three full-  
14 time equivalent (3.0 FTE) positions.

15 The sums appropriated shall be expended by the state  
16 procurement office for the purposes of this Act.

17 SECTION 11. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 12. This Act shall take effect on July 1, 2030.



**Report Title:**

Procurement; Performance Database; Procurement Database;  
Compliance Audit Unit; Procurement Task Force; Appropriation

**Description:**

Requires the state procurement office to establish a database to record performance by contractors for contracts under chapter 103, HRS. Requires the compliance audit unit to establish a database of meaningful statewide procurement contract data. Transfers authority for the compliance audit unit to the state procurement office and authorizes the compliance audit unit to conduct audits and have authority to access statewide public contract information. Establishes a procurement task force. Appropriates funds for: the compliance audit unit to establish a procurement database; operations and maintenance of the procurement database, including one full time equivalent (1.0 FTE) position; and staffing and operation of the compliance audit unit within the state procurement office, including three full-time equivalent (3.0 FTE) positions. Effective 7/1/2030. (SD2)

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